

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
FILED

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STATE OF LOUISIANA

§

PARISH OF OUACHITA

FOURTH DISTRICT COURT

JOSHUA SMITH

02-4270

CV02-2385-M

SEP 25 2002

VERSUS NO.

CONCEPT LABORATORIES, INC.,  
TACTNY, L.L.C. and EPNY, INC.

KATHY G. REAGAN

DEPUTY CLERK OF COURT  
**JUDGE JAMES**  
MAGISTRATE JUDGE KITPETITION FOR DAMAGES

Now into Court, through undersigned counsel, comes Plaintiff, JOSHUA SMITH, a major resident and domiciliary of Ouachita Parish, Louisiana, who respectfully represents:

1.

Made Defendants herein are:

- a. CONCEPT LABORATORIES, INC., a foreign corporation authorized to and actually doing business in the State of Louisiana.
- b. TACTNY, L.L.C., a foreign limited liability company authorized to and actually doing business in the State of Louisiana.
- c. EPNY, INC., a foreign corporation authorized to and actually doing business in the State of Louisiana.

2.

On or about the 27<sup>th</sup> day of December, 2001, Plaintiff, JOSHUA SMITH, purchased a hair removal kit manufactured, distributed, marketed, and/or packaged by one or more of the Defendants named herein, from Walgreen's Drug Store in West Monroe, Ouachita Parish, Louisiana.

3.

The hair removal kit was marketed as an Igis/Epil-Stop & Spray Kit

4.

Plaintiff purchased the kit in order to remove hair off of his back and part of his

arms.

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5.

At home, on the day of the purchase, Plaintiff read the instructions found in the kit and began the hair removal procedure by testing a small patch of hair on his hand as directed by instructions in the kit.

6.

Having no reaction during and after the prescribed time, Plaintiff applied the hair remover to the back of his shoulder and half way down his arms to his elbows.

7.

Within approximately three minutes, Plaintiff began to feel a severe burning sensation to his skin and immediately went into the shower and rinsed the covered area with warm water.

8.

As a result of the severe pain, Plaintiff was on his knees in the shower.

9.

Thereafter, Plaintiff, JOSHUA SMITH, was taken to Glenwood Regional Medical Center for emergency treatment of chemical burns to his back and shoulders.

10.

Plaintiff returned to the emergency room on two follow-up visits for recheck and re-dressing.

11.

As a result of this incident, Plaintiff, JOSHUA SMITH, sustained the following damages:

- a. physical injuries, including severe burns to his back;
- b. mental anguish and distress;
- c. medical expenses;
- d. loss of wages; and
- e. permanent scarring.

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12.

Plaintiff, JOSHUA SMITH, shows that the sole and legal cause of this incident and all resulting injuries and damages was the fault and negligence of the Defendants in the following non-exclusive particulars:

- a. warranting that said hair removal product is safe for use by anyone where a prior sensitivity test is negative;
- b. failure to warn that one may still have an adverse reaction to the hair removal product even if the sensitivity test is negative;
- c. failure to warn of the seriousness of a possible reaction where the sensitivity test is negative;
- d. marketing a product not fit for the ordinary purposes for which such products are used;
- e. marketing a product with inadequate information for safe use; and
- f. marketing a product in a defective condition unreasonably dangerous to the customers, such as Plaintiff.

WHEREFORE, Plaintiff, JOSHUA SMITH, prays for Judgment herein in his favor and against Defendants, CONCEPT LABORATORIES, INC., TACTNY, L.L.C. and EPNY, INC., in such amounts as are reasonable within the premises, and any and all other equitable relief, together with legal interest thereon from the date of judicial demand until paid, and all costs of these proceedings.

Respectfully submitted,

  
ANTHONY J. BRUSCATO #3611

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